

**Minutes
Arkansas State Board of Chiropractic Examiners
101 East Capitol, Suite 209
Board Meeting - Teleconference
March 29, 2010**

CALL TO ORDER

The meeting was called to order by Dr. Savelle Barnes, President, at 12:00 p.m.

ROLL CALL

Board Members present: Dr. Terry Barnett, Dr. Ryan Collins, Dr. Beverly Foster, Mr. Jack McCoy, Mr. Weldon Roberts, and Dr. Tom Taylor.

Board Members absent: None.

Staff Members present: Ms. Amanda Abernethy, Assistant Attorney General, Ms. Rebecca Wright, Executive Director.

Guests Present: None.

Lawsuit Filed by Kendall Wilson, D.C.

Dr. Barnes stated that Kendall Wilson, D.C., filed a lawsuit against the Board. He gave the floor to Ms. Amanda Abernethy, Assistant Attorney General, to discuss this issue.

Ms. Abernethy briefed the Board on the complaints filed between Kendall Wilson, D.C., and Steven Bennett, D.C. in 2009. She stated that the investigations focused on the issues that were within the Board's jurisdiction. During these investigations, one allegation against Dr. Wilson was that he did not timely renew his license for 2009. He missed the December 31, 2008, deadline. The Executive Director communicated in writing to Dr. Wilson regarding his license not being renewed in a timely manner. Dr. Wilson did not timely renew his license for 2010. He missed the December 31, 2009, deadline. The current Executive Director communicated in writing to Dr. Wilson regarding his license not being renewed in a timely manner.

Statute 17-81-311(b) states, "If the license renewal fee is not paid January 1 of each year or within sixty (60) days from the mailing of notice by the board, whichever is the later date, the license shall automatically expire and be forfeited. The license can only be reinstated upon payment of all sums due, and in its discretion, the board may assess the delinquent holder an additional sum as a penalty."

Dr. Wilson paid a penalty fee each year for not renewing his license in a timely manner. Both years, the penalty fee was insufficient. In 2010, Ms. Rebecca Wright, Executive Director, communicated in writing that due to the insufficient fee, Dr. Wilson must pay the fee by money order or cashier's check plus a twenty-five dollar (\$25) service charge. Dr. Wilson argued that

the “sixty (60) days from the mailing of notice by the board” included this communication. During a meeting with Ms. Abernethy, she explained to Dr. Wilson that the statute regards the mailing of notices on November 1 of each year, not of each communication.

Ms. Abernethy stated that the Board office received the summons. She stated that Dr. Wilson is not being represented by counsel. She has made attempts to contact him; the phone number on file is an appointment line in a clinic. When Ms. Abernethy was able to speak to Dr. Wilson, he stated that he might be getting a lawyer to represent him. He did not state what he wanted if a settlement were agreed upon.

Mr. Jack McCoy asked that if Dr. Wilson pays the monies due would he get his license. Ms. Abernethy stated that it would be the Board’s decision. The Rules and Regulations, and Statutes are being followed. Dr. Wilson stated during the conversation with Ms. Abernethy that the twenty-five dollar (\$25) service charge should not be charged. Ms. Abernethy stated that it was the Board’s discretion to allow Dr. Wilson to renew his license or to follow the Rules and Regulations. She stated that the statute 17-81-311(b) does state “all sums due” and a service charge for insufficient fees could be charged.

Dr. Tom Taylor asked if Dr. Wilson paid the twenty-five dollar (\$25) service charge and the license was reinstated, would it set a precedent. Ms. Abernethy stated that the Board could make any decision and include that there is no wrong doing on the Board’s part.

Discussion followed. Mr. McCoy suggested that if the Board reinstate Dr. Wilson’s license that a letter of warning or caution be included that this is his second year to not have timely renewed his license and that it cannot happen again. Dr. Taylor suggested that if Dr. Wilson has paid all monies and is received in the Board office to reinstate his license. Dr. Barnes asked that since this is Dr. Wilson’s second time to not have his license renewed in a timely manner could there be a consequence by the Board. Ms. Abernethy stated that the Board could have a hearing. Dr. Wilson’s due process rights would be preserved by scheduling a hearing and sending a proper notice of hearing.

Discussion followed.

Dr. Ryan Collins made a motion to reinstate Dr. Wilson’s license with a letter of warning from the Board’s legal counsel regarding timely renewing his license. Mr. Weldon Roberts seconded. Discussion followed. Ms. Abernethy stated that the optimum decision would be to offer an agreed order in exchange for Dr. Wilson dropping the lawsuit against the Board. She stated that if he did not agree, the Board could still reinstate Dr. Wilson’s license and provide the letter of warning as a good faith to show the Court that the Board did take steps to settle. The vote was taken. Dr. Beverly Foster opposed. Dr. Taylor abstained. The motion passed.

Dr. Terry Barnett made a motion that the Board’s legal counsel pursue an agreed order to reinstate Dr. Wilson’s license and provide a letter of warning in exchange for dropping the lawsuit. Mr. McCoy seconded the motion. Dr. Foster opposed. Dr. Taylor abstained. The motion passed.

Adjourn

Dr. Barnett moved to adjourn. Dr. Collins seconded the motion. Dr. Taylor requested to discuss the issues regarding the Board office database and a personnel issue. Dr. Barnes stated that personnel issues can only be discussed during an executive session. He stated that a motion and second were on the floor. A roll call vote was taken. Dr. Barnett, Dr. Collins, and Mr. Roberts, voted to adjourn. Mr. McCoy and Dr. Taylor voted to not adjourn. Dr. Foster abstained. To ensure a proper quorum, Dr. Barnes provided a tie breaker vote. He voted to adjourn. The motion passed. The Board adjourned at 12:40 p.m.